

Title 18, Division 2, Chapter 4.5, California Code of Regulations
Regulations 2240, 2241, 2242, 2250, and 2255

FINAL STATEMENT OF REASONS
PLAIN ENGLISH OVERVIEW
NON-CONTROLLING SUMMARY

Update

On March 28, 2001, the State Board of Equalization adopted regulations 2240, 2241, 2241, (implementing the Oil Spill Response, Prevention, and Administration Fees Law), 2250 (providing for Relief from Liability) and 2255 (setting forth Recordkeeping Requirements) in Title 18, Division 2, Chapter 4.5 of the California Code of Regulations.

Regulation 2240 Defines “Petroleum Products”

Specific Purpose. Regulation 2240 adds a definition of “petroleum products”.

Factual Basis. The term “petroleum products” is not defined in the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Article 3.5 (commencing with Section 8574.1) of Chapter 7 and Chapter 7.4 (commencing with Section 8670.1) of the Government Code, and Division 7.8 (commencing with Section 8756) of the Public Resources Code) (the “Lempert-Keene-Seastrand Act”), but is defined in the Oil Spill Response, Prevention, and Administration Fees Law, Part 24, Division 2 (commencing with Section 46001) of the Revenue and Taxation Code (the “Oil Spill Law”) at Section 46021 of the Revenue and Taxation Code to mean “... any liquid hydrocarbon at atmospheric temperature and pressure that is the product of the fractionation, distillation, or other refining or processing of crude oil and that is used, useable as, or may be refined as, a fuel or fuel blendstock...”.

The proposed regulation explains that the reference in the Oil Spill Law to “atmospheric temperature and pressure” is intended to refer to “standard conditions of temperature and pressure” under which petroleum products are liquid. The regulation lists some examples of products that are petroleum products (including fuels that are not used to propel a vehicle) and identifies products that are not petroleum products. The list of fuels was developed with the help of the Department of Fish and Game and includes fuels listed on the Chemical hazards Response Information System (CHRIS) list published by the United States Coast Guard.

Regulation 2241 Defines “Barrel of Crude Oil” and
Regulation 2242 Defines “Barrel of Petroleum Products”

Regulation 2241 adds a definition of “barrel of crude oil” and Regulation 2242 adds a definition of “barrel of petroleum products”.

Specific Purpose. The term “barrel” is not defined in the Lempert-Keene-Seastrand Act, but is defined in the Oil Spill Law at Section 46008 of the Revenue and Taxation Code as 42 gallons of crude oil or

petroleum products. Since the Administration Fee and the Response Fee are both imposed on the number of barrels of crude oil or petroleum products involved, it is important to know precisely what constitutes a barrel.

Factual Basis. In the past questions have arisen as to whether a barrel of crude oil includes sediment and water which are present as the result of the production process. The proposed regulation defines barrel of crude oil and barrel of petroleum products to exclude sediment and water.

Regulation 2250, Relief of Liability

Specific Purpose. Regulation 2250 is similar to Sales and Use Tax Regulation 1705 and clarifies what constitutes reliance on written advice of the Board for purposes of granting relief from liability for tax.

Factual Basis. The Oil Spill Law at Section 46158 of the Revenue and Taxation Code provides that a feepayer may be relieved of liability from the administration Fee and Response Fee, including penalty and interest, if the Board finds that the person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the Board. Regulation 2250 is proposed to clarify the circumstances under which relief may be granted for reliance on written advice of the Board. The proposed regulation is nearly identical to Board regulation 1705, which pertains to the Sales and Use Tax Law.

Regulation 2255, Records

Specific Purpose. This regulation describes the records that a feepayer must maintain to support reported fees. It is nearly identical to Board Sales and Use Tax Regulation 1698

Factual Basis. The Oil Spill Law at Sections 46601 and 46603 of the Revenue and Taxation Code provides that feepayers must maintain and make available records and source documentation in such form as the Board may require. The proposed regulation specifies the records and documentation that are necessary and the form in which they should be maintained in order to support reported amounts. Since many businesses use automated data processing systems and reproductions from microfilm and microfiche, the proposed regulation stipulates the required form and content for automated records and reproductions from microfilm and microfiche. The proposed regulation informs feepayers how long records must be retained and provides that records must be made available for the Board's examination during that time. Since failure to maintain and keep complete and accurate records may be considered evidence of negligence or intent to evade the fee, the proposed regulation informs feepayers that such failure may result in penalties or other administrative action.

Cost to Local Agencies and School Districts

The State Board of Equalization has determined that the proposed regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the regulations will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of division 4 of Title 2

of the Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings on Federal funding to the State of California.

Alternatives Considered

By its motion, the Board determined that no alternative to promulgating the regulations would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the adopted regulations.

Responses to Public Comments

There were no public comments on Regulations 2240, 2241, 2242, 2250 and 2255 and they were adopted by the Board as published.

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